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January 25, 2002

The Honorable Coleen Kollar-Kotelly
U.S. District Court, District of Columbia
C/o Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20540-0001

RE: U.S. v Microsoft

Dear Judge Kollar-Kotelly:

After many years of investigating Microsoft with regard to monopoly issues, a settlement has been struck which appears to continue that monopoly. Limiting the ability of other companies to compete, the settlement provides loopholes, which will probably keep this issue in litigation for years.

The longer it takes for competition to be permitted the less likely it is for those interested in investing venture capital to risk taking a chance on potential future development by companies hoping to compete. The result is that not only are consumers affected in that they will be unable to buy an affordable product, but the already sluggish job market will fail to reflect the potential of the industry.

It is clear that Microsoft hopes to expand its monopoly to web services, financial, cable and the like, perhaps even the internet. Without venture capital companies will be unable to creatively address emerging markets.

Although the agreement precludes Microsoft from paying a vendor to keep it from developing or distributing software that would compete, Microsoft is the determining body when an exception is identified. Likewise Microsoft must share technological information unless Microsoft determines the information may harm its security or software. In addition Microsoft, due to its monopoly and dominant market share, dictates the technologies, which will be compatible with Windows.

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At a time when serious challenges face government and corporations they will be seriously handicapped in choosing the high value systems they need for privacy and security because compatibility with Windows does not exist.

Although the technical committee will oversee the process, Microsoft will choose one of its three members. The Department of Justice will choose a second and they must agree on the third member. There is no question that companies will be less inclined to take on a monopoly when their future business may well depend on the company. Given that Microsoft will continue to be able to charge whatever it wants for its products, prices will skyrocket.

The technical committee of three must identify violations of the agreement. No findings may be admitted into court in enforcement proceedings and compliance is only for five years. This seems a short time for such a flagrant violation of antitrust law.

After all the years examining this important issue it would seem a better solution could be found. I appreciate your interest. If there is any additional information with which I may be of assistance, please contact me.

Sincerely,



Richard P. Gambino
Business Manager

/jmf

cc: Honorable Tom Reilly, Attorney General